

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
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| Improving Public Safety Communications in |) | |
| the 800 MHz Band |) | |
| |) | |
| Consolidating the 900 MHz Industrial/Land |) | WT Docket No. 02-55 |
| Transportation and Business Pool Channels |) | |
| |) | |
| To: The Commission |) | |

**COMMENTS OF
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE
MAJOR CITIES CHIEFS ASSOCIATION
NATIONAL SHERIFFS' ASSOCIATION
MAJOR COUNTY SHERIFFS' ASSOCIATION**

The International Association of Chiefs of Police (IACP), the Major Cities Chiefs Association (MCC), the National Sheriffs' Association (NSA), and the Major Counties Sheriffs' Association (MCSA) hereby jointly submit the following comments in response to the Commission's Notice of Proposed Rulemaking (NPRM), FCC 02-81 (released March 15, 2002), in the above-captioned proceeding.

The IACP is an organization of more than 18,000 professionals responsible for administration of law enforcement agencies within the United States and throughout the world. The MCC is an organization of chief executive officers of the largest local law enforcement organizations in North America. MCC membership includes fifty-three departments from the United States and six departments in Canada. The National Sheriffs' Association is an organization of more than 21,000 members that are dedicated to supporting programs that enable sheriffs, their deputies, chiefs of police, and others in the field of criminal justice to perform their

jobs in the best possible manner and to better serve the people of their cities/counties or jurisdictions. The Major County Sheriffs' Association (MCSA) is a professional organization comprised of elected sheriffs throughout the United States who represent areas with populations of at least 500,000 residents. Collectively, these organizations include the key decision makers in the United States Law Enforcement Community.

I. INTRODUCTION

The entire Public Safety Community, including the Law Enforcement Community we represent, has been experiencing increasing life threatening interference to our communications systems from commercial carriers in the 800 MHz band. As documented by Project 39 of the Association of Public-Safety Communications Officials (APCO), there are currently over 70 reported cases of such interference throughout the country and the number is growing as commercial services deploy additional sites and channels. Each reported case represents interference around multiple commercial system sites as is fully and accurately described in this NPRM and the Project 39 Report.

There should be no higher priority by the Commission than reliable communications for the Public Safety Community. The tragic terrorist events of September 11, 2001, underscore the critical service that Public Safety provides this nation. However, the need for dedicated and reliable Public Safety communications exists every day, not only in times of catastrophic terrorist events. Also, as previously documented in the Public Safety Wireless Advisory Committee (PSWAC) Report, the Public Safety Community requires additional spectrum to fulfill its primary mission of protecting the lives and property of the public they are sworn to serve. Therefore, the IACP, MCC, NSA and MCSA want to thank the Commission for focusing attention on the critical issues addressed in this Notice of Proposed Rulemaking.

II. KEY PRINCIPLES

The Commission listed three specific proposals or plans in its NPRM, including one from Nextel, Inc., a joint proposal from the National Association of Manufacturers (NAM) and the Manufacturers Radio Frequency Advisory Committee (MRFAC), and one from the FCC itself. Since the release of this NPRM, the IACP, MCC, NSA, and MCSA, in collaboration with the Association of Public-Safety Communications Officials (APCO), and the International Association of Fire Chiefs (IAFC) have been involved in informal discussions concerning these and numerous other proposals.

We believe the best approach is first to set forth principles by which any plan should be judged. In this proceeding there are four key principles that are the most important in evaluating various plans:

- 1) Interference must be prevented from occurring in the first instance; after the fact corrective action is insufficient due to the risk to life, health and property
- 2) In deciding on any solution, Public Safety communications must not be disrupted in any form during the transition
- 3) The end solution should be responsive to Public Safety's demonstrated need for additional spectrum
- 4) All costs incurred by Public Safety that are associated with any spectrum transition must be funded from external sources. As tax supported local entities, Public Safety agencies cannot self-fund the transition

The following sections of our comments address each of these issues. We also believe that for any plan to be successfully adopted and implemented, it must fairly address the needs of other users in the band as well as Public Safety.

III. INTERFERENCE MUST BE ADDRESSED AT BOTH 800 MHz AND 700 MHz

As leaders of the Law Enforcement Community our mission is to protect the public and our own officers and deputies. Reliable dedicated Public Safety communications systems are absolutely essential in accomplishing that mission. Police Chiefs and Sheriffs typically are not technical experts in radio communications. While we rely on the technical expertise of others, we know with certainty that we cannot tolerate interference to our mission critical communications.

For the most part, technical experts in our departments along with equipment vendors and commercial carriers have worked diligently over the last year to eliminate or at least minimize interference to our systems on a case-by-case basis. However, early on, we dedicated significant resources to ensure that commercial carriers understood the seriousness of interference to our systems. In actual practice, some carriers have been more responsive than others. Public Safety systems are not the root cause of the interference and have existed relatively interference free for two decades. It is only in recent years that the interference problems have arisen. Therefore, we recommend the Commission adopt rules that emphasize there is absolutely no tolerance for interference to Public Safety communications and that any interference that does occur must be addressed immediately including, if necessary, the shutdown of the interfering commercial site(s) until the problem can be resolved.

As we know from our own line of work, a strong cure is necessary when problems arise, but prevention of a problem at the outset is much more desirable and effective. Our experience shows that even when diligent case-by-case measures are pursued to eliminate the interference, interference can remain. As documented by the APCO Project P39 Report, the cases of interference are growing as commercial carriers deploy more sites and more channels. While the

IACP, MCC, NSA and MCSA recognize that case-by-case resolution of interference problems must continue, we also believe there is a serious need for a longer term solution that eliminates the potential for interference to Public Safety systems from the outset. The IACP, MCC, NSA and MCSA look forward to reviewing and evaluating all the various plans that we believe will be submitted officially in these comments.

Finally, while we are not prejudging or endorsing any particular transition plan at this time, we note that some of the plans being discussed include provisions for additional 700 MHz spectrum to support operations in the 700 MHz band by Public Safety and/or private wireless users. Even if those types of plans are not pursued, Public Safety has been allocated some spectrum in the 700 MHz band which must be protected from interference.

One of the many issues that needs to be addressed is to ensure there is no interference in the new 700 MHz band. The National Public Safety Telecommunications Advisory Committee (NPSTC) and the Telecommunications Industry Association (TIA) in a separate proceeding have already raised concerns about the significant potential for interference to public safety at 700 MHz under the current Commission rules for 700 MHz commercial systems. We again urge the Commission to adopt the NPSTC and TIA recommendations. It would be ironic for the Commission to attempt a cure of the interference at 800 MHz on the one hand and at the same time set rules in place at 700 MHz that ensure interference will once again occur in the new band. Therefore, the IACP, MCC, NSA, and MCSA strongly believe that any comprehensive plan to improve Public Safety communications must address interference prevention in both the 800 and 700 MHz bands.

IV. PUBLIC SAFETY OPERATIONS MUST NOT BE DISRUPTED DURING ANY SPECTRUM TRANSITION.

Dedicated communications systems designed to meet specific Public Safety requirements are absolutely essential to our mission. Systems range from the simple to the complex, depending on the size of the department and geography the system must cover. Some jurisdictions have systems with a single site and 50-100 radios, others have systems with a hundred or more sites and thousands of radios. However, one thing is common across all these users - Public Safety operations are 24 hours a day, 7 days a week. We cannot tolerate having our communications disrupted to shift operations to alternative channels in the 800 MHz band or to any band outside of 800 MHz. We must be able to continue expanding and upgrading our systems during the multiyear process likely to be required to obtain and implement a Commission decision.

Further, at the actual time a given Public Safety system would be shifted to alternative channels, provisions must be made to maintain communications during that process. The public's need for responsive law enforcement never takes a break so our communications must be available at all times. There are many implementation details yet to be addressed in any spectrum reconfiguration and avoiding disruption to our communications is a critical element that must be incorporated into any transition plan.

V. A COMPREHENSIVE PLAN SHOULD PROVIDE ADDITIONAL USABLE SPECTRUM FOR DEDICATED PUBLIC SAFETY SYSTEMS

In developing a comprehensive plan to eliminate interference and improve Public Safety communications, the Commission also has the opportunity to complete its response to the documented need for additional public safety spectrum. On September 11, 1996, the Public Safety Advisory Committee (PSWAC) issued its Final Report documenting the need for an additional 97.5 MHz of dedicated public safety spectrum beyond that already allocated at that time. The FCC and NTIA officially established the PSWAC as an advisory committee on June,

25, 1995. The PSWAC membership included senior representatives from Public Safety agencies, representatives of Public Safety organizations and members of the private sector. Local, state and Federal Public Safety experts actively participated to develop the PSWAC recommendations which are still valid.

In response, in 1997, the Commission allocated 24 MHz of spectrum in the 700 MHz band for wide area operations and more recently dedicated 50 MHz of spectrum at 4.9 GHz for short-range broadband Public Safety communications. The IACP, MCC, NSA and MCSA appreciate these very positive Commission actions, however, there is still a shortfall of 23.5 MHz of spectrum to meet the PSWAC documented needs.

In addition, five years after its allocation, the 24 MHz of public safety spectrum in the 700 MHz band remains inaccessible in most major metropolitan areas because of television incumbency which brings the real shortfall to almost 50 MHz. Our departments in and around New York City, Los Angeles, San Francisco, Miami, Boston, Baltimore, Dallas and many other major cities have no access to the 700 MHz band under the current situation. A comprehensive plan to address Public Safety communications should take steps to clear the 700 MHz band expeditiously. Even under the most optimistic schedule, it is likely to be several more years before the band is clear and available for use throughout the United States. Therefore, additional spectrum at 800 MHz would be of great benefit and relief to Public Safety.

Additional 800 MHz spectrum provides the basis for further development and deployment of efficient and interoperable wide-area radio systems, often serving multiple agencies. Also, those agencies that choose to deploy new subscriber equipment which covers both the 800 and 700 MHz bands inherently set the stage for expanded interoperability and communications capacity once the 700 MHz band is cleared of incumbent television operations.

The PSWAC Report also addressed the continued need for dedicated Public Safety systems and spectrum. Although commercial services are helpful for non- mission critical communications, they are not the solution for mission critical response. For mission critical operations we need dedicated communications systems for which Public Safety oversees the design, implementation and control, to ensure the necessary coverage, reliability and security.

In discussing resolution of the interference, Public Safety system designs must be matched to Public Safety operational requirements. Most of the communications on our mission critical systems intentionally are group calls because that allows all officers to hear a call from the dispatcher or other officers and respond as needed. That capability is a critical element in providing backup to ensure the safety of both our officers and the public. Dedicated Public Safety system designs already maximize spectral efficiency consistent with our operational requirements. Therefore, the IACP, MCC, NSA, and MCSA recommend the Commission endorse and act upon the full PSWAC recommendations for additional spectrum.

IV. ALL COSTS ASSOCIATED WITH A SPECTRUM TRANSITION MUST BE FUNDED FROM EXTERNAL SOURCES

As tax supported local entities, public safety agencies cannot self-fund the transition. Therefore, a critical element which must be examined for each plan is whether it includes sufficient provisions to fund all direct and indirect costs Public Safety would incur. The public purse in our cities, counties, and states simply will not support such costs so funding must come from external sources.

The costs to implement the transition will depend on the plan ultimately adopted. As the various plans which have been under discussion are “officially” submitted in response to the Commission’s NPRM, analysis must be performed to estimate the costs and to determine how those costs will be paid at the right time to support the transition. Even with a plan that shifts the

public safety channels within the 800 MHz band, we have been advised that some portion of the mobiles and portables we use today cannot readily be retuned and would need to be replaced instead.

The IACP, MCC, NSA, and MCSA cautions the Commission not to place a set cap on cost reimbursement. Based on discussions with our own communications experts and with equipment vendors, it is apparent that each Public Safety licensee will ultimately need to have its own individual system assessed to develop the actual plan on how the transition would be accomplished and the associated costs of doing so. Until that plan is developed and contracted, actual costs will not be known. The best the Public Safety community would have prior to that time is an educated estimate of the overall costs for a specific plan.

VII. SUMMARY

The IACP, MCC, NSA, and MCSA applaud the Commission for opening a rulemaking focused on improving Public Safety systems and eliminating interference. Our communications systems are essential tools to help protect the public and our own personnel. We urge the Commission to adopt rules which make it clear that interference to Public Safety can not be tolerated. We have learned from experience that addressing interference on a case-by case basis cannot cure the problem and only moves or masks the problem. We believe a plan must be adopted to address the interference issues in a more comprehensive manner over the longer term across both the 800 and 700 MHz bands. The clearing of television broadcasters from the 700 MHz band is essential to our use of that band. From the perspective of the IACP, MCC, NSA, and MCSA, any plan should be judged by how well it eliminates the interference, avoids

disruption of our critical communications, provides Public Safety additional spectrum and funds all of the transition costs.

Respectfully submitted,

William B. Berger, President
International Association of Chiefs of Police
515 N. Washington St.
Alexandria, VA 22314-2357
703-836-6767

Jerry Keller, President
Major Cities Chiefs Association
c/o Las Vegas Metro Police Dept.
400 Stewart Avenue
Las Vegas, NV 89101
702-229-3231

John Cary Bittick, President
National Sheriffs' Association
1450 Duke Street
Alexandria, VA 22314-3490
703-836-7827

Kevin E. Beary, President
Major County Sheriffs' Association
c/o Orange County Sheriff's Office
2400 West 33rd Street
Orlando, FL 32839
407-836-3701

Contact: Harlin R. McEwen
Chair - IACP Communications Committee
Communications Advisor - MCC, NSA, MCSA
422 Winthrop Drive, Ithaca, NY 14850
E-Mail: chiefhrm@leo.gov
607-257-1522

DATE: May 6, 2002